

Fifty-sixth  
Legislative Assembly  
of North Dakota

## ENGROSSED SENATE BILL NO. 2148

Introduced by

Judiciary Committee

(At the request of the Secretary of State)

1 A BILL for an Act to create and enact a new section to chapter 16.1-11 of the North Dakota  
2 Century Code, relating to deadlines for placing county and city measures on election ballots;  
3 and to amend and reenact sections 11-07-06, 16.1-05-03, 16.1-11-06, 16.1-11-11, 16.1-11-22,  
4 16.1-15-19, and subsection 6 of section 16.1-16-01, relating to election of county  
5 commissioners, election worker training sessions, the time for submitting nominating petitions  
6 or certificates of endorsement, the form of the primary election ballot, and county canvassing  
7 boards and recount boards being authorized to stamp and initial absentee ballots.

8 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

9 **SECTION 1. AMENDMENT.** Section 11-07-06 of the North Dakota Century Code is  
10 amended and reenacted as follows:

11 **11-07-06. Petitions - Signers required - Submission of question to voters.** The  
12 board of county commissioners, upon receipt of a petition signed by at least ten percent of the  
13 qualified electors of the county as determined by the number of votes cast for the office of  
14 governor at the preceding general election, shall, in accordance with applicable provisions of  
15 title ~~46~~ 16.1, cause the question of whether commissioners shall be elected at large to be  
16 submitted to the qualified electors of the county at the next succeeding primary or general  
17 election. If approved by sixty percent of the qualified electors voting at such election, all county  
18 commissioner districts in ~~such~~ the county ~~shall~~ must be immediately dissolved, and thereafter  
19 as the term of office of each member of the board of county commissioners expires, ~~such~~ the  
20 office ~~shall~~ must be filled by an election at large.

21 **SECTION 2. AMENDMENT.** Section 16.1-05-03 of the North Dakota Century Code is  
22 amended and reenacted as follows:

23 **16.1-05-03. Secretary of state and county auditors to distribute election**  
24 **information - County auditor to provide instruction.**

- 1           1. Not less than thirty days before any primary, general, or special election, the  
2           secretary of state shall provide an instruction manual approved by the attorney  
3           general, which in layman's terms presents in detail the responsibilities of each  
4           election official. The secretary of state shall forward sufficient copies of this  
5           manual to each county auditor who shall distribute the manuals to each member of  
6           all the election boards in the county.
- 7           2. Before each primary and general election, each county auditor or the auditor's  
8           designated representative shall conduct training sessions on election laws and  
9           election procedures for election officials in the county and may conduct training  
10          sessions before any special statewide or legislative district election. The session  
11          or sessions must be conducted at such place or places throughout the county as  
12          the county auditor determines to be necessary. Attendance at the session is  
13          mandatory for members of the election board and for poll clerks ~~unless the board~~  
14          of county commissioners determines that the poll clerks in that county may not  
15          attend. The county auditor shall notify the members of the election boards, poll  
16          clerks ~~if applicable~~, and the state's attorney of the time and place of the session.  
17          The state's attorney shall attend all sessions to give advice on election laws. The  
18          county auditor shall invite the district chairman in that county representing any  
19          political party casting at least five percent of the total votes cast for governor at the  
20          last election to attend the session at the chairman's own expense. On the date of  
21          ~~such~~ the course or courses, the county auditor may deliver to all election  
22          inspectors at ~~such~~ the meeting the official ballots and all other materials as  
23          provided in chapter 16.1-06. Except as otherwise provided in this section, each  
24          person attending the course or courses must be compensated as provided in  
25          section 16.1-05-05.
- 26          3. An election official, at the option of the county auditor, may be excused from  
27          attending a third training session on election laws within a twelve-month period. If  
28          an election official has attended a training session within the six months preceding  
29          a special election, the election official must be compensated at the pay appropriate  
30          for those having attended a training session, as provided in section 16.1-05-05, for  
31          that election.

1           **SECTION 3.** A new section to chapter 16.1-11 of the North Dakota Century Code is  
2 created and enacted as follows:

3           **Deadline for placing county and city measures on primary, general, or special**  
4 **election ballots.** Notwithstanding any other provision of law, a county may not submit a  
5 measure for consideration of the voters at a primary, general, or special statewide, district, or  
6 county election after four p.m. on the sixtieth day before the election. A city that has combined  
7 its regular or a special election with a primary, general, or special county election, according to  
8 the provisions set forth in section 40-21-02, may not submit a measure for consideration of the  
9 voters at that election after four p.m. on the sixtieth day before the election.

10          **SECTION 4. AMENDMENT.** Section 16.1-11-06 of the North Dakota Century Code is  
11 amended and reenacted as follows:

12          **16.1-11-06. State candidate's petition or political party certificate of endorsement**  
13 **required to get name on ballot - Contents - Filing.** Every candidate for United States  
14 senator, United States representative, a state office except the office of state senator or state  
15 representative, and judges of the supreme and district courts shall, ~~not more than seventy nor~~  
16 ~~less than sixty days,~~ between the first date candidates may begin circulating nominating  
17 petitions according to this chapter and before four p.m. of the sixtieth day, prior to any primary  
18 election, present to the secretary of state either:

- 19           1. A certificate of endorsement signed by the state chairman of any legally  
20 recognized political party containing the candidate's name, post-office address, the  
21 title of the office to which the candidate aspires, and the party which the candidate  
22 represents; or
- 23           2. A petition containing the following:
- 24           a. The candidate's name, post-office address, and the title of the office to which  
25 the candidate aspires.
- 26           b. The name of the party the candidate represents if the petition is for an office  
27 under party designation.
- 28           c. The signatures of qualified electors, the number of which must be determined  
29 as follows:
- 30           (1) If the office is under party designation, the signatures of three percent  
31 of the total vote cast for the candidates of the party with which the

1 candidate affiliates for the same position at the last general election.

2 However, no more than three hundred signatures may be required.

3 (2) If there was no candidate of a party for a position at the preceding  
4 general election, at least three hundred signatures.

5 (3) If the office is under the no-party designation, at least three hundred  
6 signatures.

7 d. The mailing address and the date of signing for each signer.

8 If the petition or certificate of endorsement is for the office of governor or lieutenant governor, it  
9 must contain the names and other information required of candidates for both those offices. If  
10 the petition or certificate of endorsement is mailed, it must be in the possession of the secretary  
11 of state before four p.m. of the sixtieth day prior to the primary election.

12 **SECTION 5. AMENDMENT.** Section 16.1-11-11 of the North Dakota Century Code is  
13 amended and reenacted as follows:

14 **16.1-11-11. County and legislative district candidates' petitions - Filing -**

15 **Contents.** Every candidate for a county or legislative district office shall present, ~~not more than~~  
16 ~~seventy nor less than sixty days~~ between the first date candidates may begin circulating  
17 nominating petitions according to this chapter and before four p.m. of the sixtieth day before  
18 any primary election, to the county auditor of the county in which the candidate resides either:

19 1. A certificate of endorsement signed by the district chairman of any legally  
20 recognized political party containing the candidate's name, post-office address, the  
21 title of the office to which the candidate aspires, and the party that the candidate  
22 represents; or

23 2. A petition containing the following:

24 a. The candidate's name, post-office address, and the title of the office to which  
25 the candidate aspires.

26 b. The name of the party the candidate represents, only if it is a petition for an  
27 office that is under party designation.

28 c. The signatures of qualified electors, the number of which must be determined  
29 as follows:

30 (1) If the office is a county office, the signatures of not less than two  
31 percent and not more than five percent of the total vote cast for the

1 office at the most recent general election at which the office was voted  
2 upon.

3 (2) If the office is a county office and multiple candidates were elected to  
4 the office at the preceding general election at which the office was  
5 voted upon, the signatures of not less than two percent and not more  
6 than five percent of the votes cast for all candidates divided by the  
7 number of candidates that were to be elected to that office.

8 (3) If the office is a county office and no candidate was elected or no votes  
9 were cast for the office at any general election, the number of signers  
10 equal to the percentage as provided in paragraph 1 applied to the total  
11 average vote cast for the offices of sheriff and county auditor at the  
12 most recent general election at which those officers were elected in the  
13 petitioner's county. This average must be determined by dividing by  
14 two the total vote cast for those offices.

15 (4) If the office is a legislative office, the signatures of at least one percent  
16 of the total resident population of the legislative district as determined  
17 by the most recent federal decennial census.

18 (5) In no case may more than three hundred signatures be required.

19 d. The mailing address and date of signing for each signer.

20 If the petition or certificate of endorsement is mailed, it must be in the possession of the county  
21 auditor before four p.m. on the sixtieth day before the primary election.

22 **SECTION 6. AMENDMENT.** Section 16.1-11-22 of the North Dakota Century Code is  
23 amended and reenacted as follows:

24 **16.1-11-22. Primary election ballot - Form - Voters to vote for candidates of only**  
25 **one party.** At the primary election there may be only one ballot for all parties or principles.

26 The ballot must be in the following form:

- 27 1. The ballot must be entitled the "consolidated primary election ballot".  
28 2. Each party or principle having candidates at the primary election must have a  
29 separate column on the ballot; the columns must be separated by a solid six-point  
30 rule.

- 1           3. At the head of each column must be printed the name of the political party or  
2           principle which it represents.
- 3           4. In each column below the party or principle title must be printed: "You may vote  
4           for the candidates of only one party at the primary election. If you cast votes in  
5           more than one party column and vote for candidates of more than one party, your  
6           party ballot will be rejected."
- 7           5. Immediately below the warning against voting for candidates of more than one  
8           party must be printed: "Put a crossmark (X) opposite the name of the candidate  
9           for whom you wish to vote. To vote for a person whose name is not printed on the  
10          ballot write or paste that person's name in the blank space provided for that  
11          purpose."
- 12          6. The offices specified in section 16.1-11-26 must be arranged in each column with  
13          the name of each office in the center of each party column at the head of the  
14          names of the aspirants for the office.
- 15          7. Immediately under the name of each office must be printed: "Vote for no more  
16          than \_\_\_\_\_ name (or names)."
- 17          8. At the side of the name of each aspirant and in a column must be printed a square  
18          or other figure for making a crossmark or other mark. No squares or other figures  
19          may be printed at the head of the ballot.
- 20          9. The political party or principle which cast the largest vote for governor at the most  
21          recent primary election at which the office of governor was voted upon must have  
22          the left-hand column, and the party or principle casting the next largest vote must  
23          have the next column, and so on.

24 The judges and the inspector of elections shall inform each elector at the primary, before  
25 voting, that if the voter votes for candidates of more than one party the voter's party ballot will  
26 be rejected.

27           **SECTION 7. AMENDMENT.** Section 16.1-15-19 of the North Dakota Century Code is  
28 amended and reenacted as follows:

29           **16.1-15-19. County canvassing board to disregard technicalities, misspelling,**  
30 **and abbreviations - Votes from unestablished precincts disregarded.** In canvassing the  
31 election returns, the county canvassing board shall disregard technicalities, misspelling, and

1 the use of initial letters or abbreviations of the name of any candidate for office if it can be  
2 ascertained for whom the vote was intended. The board may not count votes polled in any  
3 place except at established precincts. The county canvassing board is authorized to stamp  
4 and initial properly postmarked absentee ballots that were not considered or counted at the  
5 various precincts in the county for the reasons provided in sections 16.1-07-11 and 16.1-07-12.

6 **SECTION 8. AMENDMENT.** Subsection 6 of section 16.1-16-01 of the North Dakota  
7 Century Code is amended and reenacted as follows:

- 8 6. The persons entitled to participate at the recount are:
- 9 a. Each candidate involved in the recount, either personally or by a  
10 representative.
  - 11 b. A qualified elector favoring each side of a question if the recount involves a  
12 question or proposition submitted to a vote of the electorate.

13 The persons allowed to participate may challenge the acceptance or exclusion of  
14 any ballot. The person challenging a ballot must state the reason for the challenge  
15 based upon the law, and the county auditor or other political subdivision election  
16 official shall count the challenged ballot as the auditor or election official deems  
17 proper and shall then set the ballot aside with a notation that it was challenged and  
18 how it was counted. At the conclusion of the recount, the county auditor or other  
19 election official shall submit all challenged ballots to the recount board for decision.  
20 Except for political subdivision recounts other than counties, the recount board  
21 must be composed of the state's attorney of the county, the chairman of the board  
22 of county commissioners, and the clerk of the district court of the county. Unless  
23 otherwise specified by law, for a political subdivision other than a county, the  
24 governing body of the political subdivision shall appoint the recount board. No  
25 person may serve on the recount board if the person would not be qualified to  
26 serve on the election board pursuant to subsection 2 of section 16.1-05-02. If any  
27 of the members of the recount board are disqualified or cannot serve for any other  
28 reason, the members of the board of county commissioners or other political  
29 subdivision governing body who would be qualified to serve on the board shall  
30 appoint disinterested qualified electors of the county or other political subdivision to  
31 serve as alternates. The recount board shall review all challenged ballots and on

1 majority vote shall decide how those ballots are counted. The recount board is  
2 authorized to stamp and initial properly postmarked absentee ballots that were not  
3 considered or counted at the various precincts in the county for the reasons  
4 provided in sections 16.1-07-11 and 16.1-07-12 or by the county canvassing  
5 boards as provided in section 16.1-15-19. The decision of the recount board is  
6 final, subject to the right to contest the election as provided in this chapter. If  
7 during the recount a recess is called, the county auditor or other political  
8 subdivision election official shall take appropriate steps to safeguard the ballots.